



MEMORANDUM

TO: Parks Board

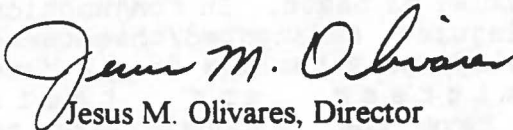
FROM: Jesus M. Olivares, Director
Parks and Recreation Department

DATE: April 9, 1996

SUBJECT: Recommendation of Acceptance of U.S. Fish and Wildlife 10A Permit

Attached is a summary of special conditions for approval of the 10A permit to be issued by U.S. Fish and Wildlife to the City of Austin, Travis County and LCRA for the BCCP. The permit allows the City, County and LCRA to regulate their respective properties within the federal identified habitat area. Dr. Juan Valera and his Natural Resource Management staff have been working closely with the BCCP Steering Committee in developing the application for the permit.

The Parks and Recreation Department recommends approval to accept the permit.



Jesus M. Olivares, Director
Parks and Recreation Department

Attachment

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March 27, 1996

SPECIAL CONDITIONS
BCCP INCIDENTAL TAKE PERMIT

1. If during the tenure of this permit, the amount of incidental take is exceeded, issuance of Participation Certificates must be stopped and the permittees must re-initiate consultation with the USFWS to avoid violation of section 9, Endangered Species Act.
2. Acceptance of this permit serves as evidence that the permittees understand and agree to abide by the terms of this permit and all sections of Title 50 Code of Federal Regulations Parts 13, 17, and 21 (attached) pertinent to issued permits.
3. The authorization granted by this permit is subject to compliance with, and implementation of, the terms and conditions of the Environmental Impact Statement/Habitat Conservation Plan, Biological opinion, and all specific conditions contained in this permit. If there are any discrepancies between the requirements in these documents, the requirements identified in the special conditions of this issued permit take precedence.
4. Upon locating a dead, injured, or sick species from the list species covered by this permit, or any other endangered or threatened species, permittees are required to contact the U.S. Fish and Wildlife Service's Law Enforcement Office, Austin, Texas (512) 490-0948, for care and disposition instructions. Extreme care should be taken in handling sick or injured individuals to ensure effective and proper treatment. Care should also be taken in handling dead specimens to preserve biological materials in the best possible state for analysis of cause of death. In conjunction with the care of sick or injured endangered/threatened species, or preservation of biological materials from a dead specimen, the permittees and their contractor(s)/subcontractor(s) have the responsibility to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.
5. The validity of this permit is also conditioned upon observance of all relevant foreign, state, local, or other Federal law.
6. The permittees are authorized to "take" (kill, harm, or harass) the following federally-listed endangered species:

SCIENTIFIC NAME

COMMON NAME

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Vireo atricapillus
Dendroica chrysoparia
Tartarocreagris texana
Neoleptoneta myopica
Texella reddelli
Texella reyesi
Rhadine persephone
Texamaurops reddelli

Black-capped vireo
 Golden-cheeked warbler
 Tooth Cave pseudoscorpion
 Tooth Cave spider
 Bee Creek Cave harvestman
 Bone Cave harvestman
 Tooth Cave ground beetle
 Kretschmarr Cave mold beetle

Additionally, the permittees would be covered for incidental take of the following species of concern if these species become listed during the life of the permit and the mitigation measures identified in this permit are completed.

Philadelphus ernestii
Croton alabamensis
Sphalloplana mohri
Candona sp. nr. *stagnalis*
Caecidotea reddelli
Trichoniscinae N. S.
Miktoniscus N. S.
Cicurina wartoni
C. ellioti
C. bandida
C. reddelli
C. reyesi
C. cueva
C. travisae
Neoleptoneta coccinea
Neoleptoneta devia
Eidmannella reclusa
Aphrastochthonius N. S.
Tartarocreagris reddelli
T. intermedia
T. N. S. 3
Texella spiniperca
T. comanche

Canyon Mock-orange
 Texabama croton
 Flatworm
 Ostracod
 Isopod
 Isopod
 Isopod
 Spider
 Spider
 Spider
 Spider
 Spider
 Spider
 Spider
 Spider
 Spider
 Spider
 Spider
 Pseudoscorpion
 Pseudoscorpion
 Pseudoscorpion
 Pseudoscorpion
 Harvestman
 New Comanche Trail Cave
 harvestman
 Millepede
 Ground beetle
 Ground beetle
 Ground beetle

Speodesmus N. S.
Rhadine s. subterranea
R. s. mitchelli
R. austinica

7. An annual report, due June 1st of each year beginning in 1997, is to be provided to the Austin Ecological Services Field Office. This report is to include:
 - a. a list of all development activities west of the MOPAC Railroad that were permitted by the Permit Holders in the previous 12 months,

- b. a list of all tracts for which Participation Certificates were purchased,
- c. amount of funds collected for land acquisition,
- d. amount of funds expended for land acquisition,
- e. an updated map of the lands dedicated to preserve management,
- f. a list of public use and habitat management activities that have been undertaken or completed within the bounds of the preserve units, including the status of land management plans undertaken by the permit holders and managing partners, and
- g. a copy of all research or investigation reports that have been prepared within the previous 12 months.

In addition to the above annual requirements, the Permit Holders must provide quarterly updates for the tracts for which Participation Certificates were purchased that include the following information:

- a. a general map of each tract location and
 - b. a tract boundary map that identifies the areas for which the Participation Certificate applies. If a location and/or tract map is not provided to the Permit Holder during the normal permitting process, a street address will meet this requirement.
8. A copy of a recorded Participation Certificate provided by the Permit Holders must be posted at the property site from the time vegetation clearing begins until the construction is completed. For residential development, completed construction is when all roads and utilities are completed to the extent that they meet the applicable acceptance criteria of the City of Austin or Travis County. For commercial/industrial/multi-family developments completed construction is when buildings are suitable for occupancy.
9. The funds collected and expended for this Permit and its compliance with the financial requirements of the Permit shall be evaluated by financial audits conducted after the sale of Participation Certificates covering 3,000 fee paid acres or every five years, whichever comes sooner, until permit expiration. Such audits will be coordinated between the USFWS and the Coordinating Committee. This audit may be part of the permittees processes as required by State law.
10. The funds collected under this Permit will be expended for land or easement acquisition and other preserve system needs in accordance with the following criteria:
- a. tracts considered for acquisition will be within or contiguous to the boundaries of the preserve units

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- identified in the issued Permit;
 - b. expenditure priority should be in the following decreasing order: Bull Creek, Cypress Creek, South Lake Austin, and North Lake Austin; and
 - c. dispensing of funds from the BCCP Fund account should be accomplished as soon as there are adequate funds to complete a transaction taking into account opportunity, preserve priority and development threat.
11. The Permit Holders will administer the issuance and redemption of the Participation Certificates.
 12. Incidental take that may result from the implementation of land management activities within the boundaries of a preserve and contained in management plan approved by the Coordinating Committee, are covered under this Permit.
 13. Incidental take that may result from the implementation of infrastructure corridor projects approved by the Secretary of the Coordinating Committee and within one of the BCCP approved corridors, is covered under this Permit.
 14. Incidental take of the Barton Springs salamander is not covered by this Permit. Entities who purchase Participation Certificates for activities within the Travis County portion of the Barton Springs watershed should obtain guidance with respect to avoiding the impacts of their activities on water quality as they relate to the Barton Springs salamander.
 15. The incidental take authorization of this permit does not apply to the "take" of any endangered or threatened species outside of Travis County.
 16. The "No Surprises" policy of the U. S. Fish and Wildlife Service provides that additional mitigation lands or financial compensation shall not be required of the permittees or their successors beyond the level of mitigation provided for in the EIS/HCP. With respect to this permit, the EIS/HCP and supporting documents adequately addressed the species listed in special condition 6 above. To be fully covered by the "No Surprises" policy for a specific species, all of the requirements identified for that species must be met.

GOLDEN-CHEEKED WARBLER:

- a. Ensure at least 28,428 acres within the seven identified macrosites are acquired and managed for the golden-cheeked warbler. Acquisition and management activities through this Permit, other issued incidental take permits, and section 7 consultations where the mitigation activities are and within or contiguous to the proposed

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- preserve boundaries, count toward this goal.
- b. In conjunction with the managing partners, control human activities to eliminate or mitigate any adverse impacts of human activities to the warbler on these 28,428 acres.
- c. No vegetation clearing activities be accomplished within golden-cheeked warbler habitat, Zones 1 and 2, from March 1 through August 31 to prevent the disturbance of nesting activities unless current breeding season surveys, conducted in accordance with Fish and Wildlife Service protocol, indicate that the warbler is not nesting within 300 feet of the proposed clearing.
- d. Develop and implement an approved land management plan, in accordance with the land management guidelines set forth by the Coordinating Committee, for each tract within 12 months after permit issuance or within 12 months of land acquisition whichever is latter.

BLACK-CAPPED VIREO

- a. Ensure at least 2,000 acres within the seven identified macrosites are acquired and managed for the black-capped vireo. Acquisition and management activities through this Permit, other issued incidental take permits, and section 7 consultations where the mitigation activities are and within or contiguous to the proposed preserve boundaries, count toward this goal.
- b. No vegetation clearing activities be accomplished within black-capped vireo habitat between March 1 and August 31 to prevent the destruction of an active nest unless current breeding season surveys, conducted in accordance with Fish and Wildlife Service protocol, indicate that the vireo is not nesting within 300 feet of the proposed clearing.
- c. Develop and implement an approved land management plan, in accordance with the land management guidelines set forth by the Coordinating Committee, for each tract within 12 months after permit issuance or within 12 months of land acquisition whichever is latter.
- d. The control of human activities to eliminate or mitigate any adverse impacts of human activities to the vireo on these 2,000 acres.

LISTED KARST INVERTEBRATES

- a. Acquire and manage, or implement formal management agreements adequate to preserve the environmental integrity of the following 35 caves that support federally-listed karst invertebrates:

Amber Cave

Kretschmarr Double Pit

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Bandit Cave	Kretschmarr Cave
Beard Ranch Cave	Lamm Cave
Bee Creek Cave	Little Bee Creek Cave
Broken Arrow Cave	M.W.A. Cave
Cave Y	McDonald Cave
Cold Cave	McNeil Bat Cave
Cotterell Cave	New Comanche Trail Cave
Disbelievers Cave	No Rent Cave
Eluvial Cave	North Root Cave
Fossil Cave	Rolling Rock Cave
Fossil Garden Cave	Root Cave
Gallifer Cave	Spider Cave
Hole-In-The-Road	Stovepipe Cave
Japygid Cave	Tardus Hole
Jest John Cave	Tooth Cave
Jester Estates Cave	Weldon Cave
Jollyville Plateau Cave	

- b. If during investigations for development of a tract, karst features are discovered with a significant diversity of troglobitic fauna, those karst features may be submitted to the USFWS for consideration for exchange with karst features identified for protection by the BCCP. The determination of "significant diversity" will be made by the permit applicants and the USFWS, in association with karst experts. The inclusion of such a karst feature would not increase the number of caves to be protected by the BCCP, but would result in the new feature replacing a previously identified cave or caves.
- c. Where the surface and subsurface hydrogeologic area around a cave identified for protection is not known, the area delineated by the contour level at the bottom of the cave will be managed for cave protection and no Participation Certificates are to be awarded within 0.25 miles of the cave entrance until the hydrogeologic areas are delineated.
- d. Enter into formal management agreement(s) for all caves that are recommended for protection but have yet to be acquired. The management agreement(s) will detail the area to be managed for cave protection, what such management will entail, and who is responsible for the management.

KARST SPECIES OF CONCERN

- a. Acquisition and management, or implementation of formal management agreements adequate to preserve the environmental integrity of the following 27 caves, in

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addition to the caves protected for the federally-listed species, that support the karst species of concern:

Adobe Springs Cave	Jack's Joint
Airman's Cave	Lost Oasis Cave
Armadillo Ranch Sink	Lost Gold Cave
Arrow Cave	Maple Run Cave
Blowing Sink	Midnight Cave
Buda Boulder Spring	Moss Pit
Cave X	Pennie Cave
Ceiling Slot Cave	Pickle Pit
District Park Cave	Pipeline Cave
Flint Ridge Cave	Slaughter Creek Cave
Get Down Cave	Spanish Wells Cave
Goat Cave	Stark's North Mine
Ireland's Cave	Talus Spring
	Whirlpool Cave

The caves in which the karst species of concern occur are listed below. To receive the "no surprises" guarantee for the identified species, the caves identified must be protected, as per "a" above.

<u>SPECIES</u>	<u>CAVE</u>
<i>Sphalloplana mohri</i>	Spanish Wells Cave
<i>Candona</i> sp. nr. <i>stagnalis</i>	Cave X
<i>Caecidotea reddelli</i>	Buda Boulder Cave, Cave X, Jack's Joint
<i>Trichoniscinae</i> N. S.	Bandit Cave
<i>Miktoniscus</i> N. S.	Cave X
<i>Cicurina wartoni</i>	Pickle Pit
<i>C. ellioti</i>	Cotterell Cave, Fossil Garden Cave, Gallifer Cave, No Rent Cave, Weldon Cave
<i>C. bandida</i>	Bandit Cave, Ireland's Cave
<i>C. reddelli</i>	Cotterell Cave
<i>C. reyesi</i>	Airman's Cave
<i>C. cueva</i>	Cave X, Flint Ridge Cave
<i>C. travissae</i>	Amber Cave, Broken Arrow Cave, Kretschmarr Cave, McDonald Cave, Root Cave, Spider Cave, Stovepipe Cave, Tooth Cave
<i>Neoleptoneta coccinea</i>	Lost Gold Cave, Stark's North Cave
<i>N. devia</i>	McDonald Cave
<i>Eidmannella reclusa</i>	Tooth Cave, Gallifer Cave, Kretschmarr Cave, Stovepipe Cave
<i>Aphrastochthonius</i> N. S.	Stovepipe Cave
<i>Tartarocresgria reddelli</i>	McDonald Cave
<i>T. intermedia</i>	Airman's Cave

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T. N. S. 3
Texella spiniperca
T. comanche
Speodesmus N. S.

Rhadine s. subterranea

R. s. mitchelli

R. austinica

BCNWR
Airman's Cave
New Comanche Trail Cave
Bandit Cave, Cave X, Get Down
Cave, Goat Cave, Pennie Cave,
Pipeline Cave, Slaughter Creek
Cave, Whirlpool Cave
Cotterell Cave, Fossil Cave,
Fossil Garden Cave, No Rent
Cave, McNeil Bat Cave, Weldon
Cave
Amber Cave, Kretschmarr Cave,
Tooth Cave
Airman's Cave, Arrow Cave,
Bandit Cave, Bee Creek cave,
Blowing Sink, Cave Y, cave X,
District Park Cave, Flint Ridge
Cave, Get Down Cave, Ireland's
Cave, Lost Gold Cave, Lost Oasis
Cave, Maple Run Cave, Midnight
Cave, Pennie Cave, Whirlpool
Cave

- b. If during investigations for development of a tract, karst features are discovered with a significant diversity of troglobitic fauna, those karst features may be submitted to the USFWS for consideration for exchange with karst features identified for protection by the BCCP. The determination of "significant diversity" will be made by the permit applicants and the USFWS, in association with karst experts. The inclusion of such a karst feature would not increase the number of caves to be protected by the BCCP, but would result in the new feature replacing a previously identified cave or caves.
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CANYON MOCK-ORANGE

Protect the portions of the known populations found within the preserve boundaries.

TEXABAMA CROTON

Protect and manage the populations at Pace Bend Park.



MEMORANDUM

TO: Mayor and Council Members

FROM: Jesus M. Olivares, Director
Parks and Recreation Department

DATE: April 3, 1996

SUBJECT: News Story - Lead-Based Paint on Playscapes

I have the following information concerning a television news story regarding lead-based paint on City of Austin playscape equipment.

On Tuesday, April 2, 1996, a KTBC-TV reporter contacted officials from various City departments regarding the presence of lead-based paint on playscape equipment. The television station hired a consultant, Raba-Kistner-Brytest, to take samples of paint from the equipment at 10 sites to be tested for lead. Six of the ten tested were found to have levels above 0.5%. The presence of lead in paint is determined by weight. Any percentage of 0.5% or greater is the regulatory safety standard set by the U.S. Department of Housing and Urban Development.

At 3:00 p.m., April 2, representatives from the City's Departments of Health and Human Services (HHSD) and Parks and Recreation (PARC), and the Texas Department of Health (TDH) met with Channel 7 and the testing consultants at the Rosewood Park playground, 2300 Rosewood Ave. Interviews were conducted with each organization.

The resulting news story is expected to be aired Wednesday, April 3, at 10:00 p.m. Interviews addressed the potential hazard, what is being done to protect children from this type of exposure, and safety tips to guard against ingestion (washing hands and clothing, etc.). The phone number published in the Austin American-Statesman "Inside Line" Section with recorded information for callers with health related questions is 416-5700. The recording will also give a referral number to the HHSD for further information. This will be available for public access by Thursday, April 4.

According to the report, playscapes with elements testing above the 0.5 level for lead-based paint were:

Rosewood, 2300 Rosewood Ave.
Pan American, 2100 E. 3rd St.
Shipe, 4400 Ave. G
Cook, 1511 Cripple Creek
Ricky Guerrero, 2006 S. 6th St.
Zilker, 2100 Barton Springs Rd.

Memo to Mayor and Council
Lead-Based Paint in Playscapes
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Also, according to the report, the four (4) other sites tested also were found to have elements with lead-based paint; however, the levels were below 0.5. They were:

Hancock, 811 East 41st St.
T.A. Brown, 505 W. Anderson Ln.
Montopolis, 1200 Montopolis Drive
Patterson, 4200 Brookview

The reporter was advised there is a process underway for playscape renovations city-wide. Existing plans for the six playscapes tested with levels above 0.5% are:

Rosewood - design in April 1996; renovation scheduled in early 1997.
Pan-American - bids due April 1996; replacement scheduled summer 1996.
Shipe - no funding available; have requested CIP interest in FY 96-97 for renovation.
Cook - has authorized but unsold bonds, due for sale in 1999.
Ricky Guerrero - no funding available and none currently requested
Zilker - elements with lead-based paint were the tire rims on the fire truck and one bolt on the lions' head water fountain; these can be repaired quickly.

Two of the playscapes with lower levels of lead-based paint also have renovation plans. They are:

Patterson - Phase I construction in spring 1996; Phase II design scheduled for fall 1996.
Montopolis - design complete and the permitting process is underway. Construction scheduled for fall of 1996.

Health officials tell us there is no immediate threat to children; however, it is still not a situation we take lightly.

As a result, a meeting is scheduled for 4:30 p.m. Wednesday April 3 with Parks and Recreation, Health and Human Services, Public Works and Environmental and Conservation Services to determine the immediacy of this issue and to develop a process for evaluation and correction of those falling above the 0.5% level. I will keep you apprised as this process continues.

Please let me know if you need additional information.

Jesus M. Olivares, Director
Parks and Recreation Department

xc: Toby Futrell